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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Sebastien Fraieu

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EXAMINER

LUONG, ALAN H

ART UNIT

PAPER NUMBER

2427

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/562,663	FRALEU ET AL.	
	Examiner	Art Unit	
	ALAN LUONG	2427	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is a decision on the petition under 37 CFR 1.137(b), filed April 14, 2010, to revive the above-identified application is granted. The Office Action is prepared by new Examiner.

Response to Arguments

Applicant's arguments filed 4/14/2010 have been fully considered but they are not persuasive.

A. Rejection of claims 1 - 10 under 35 U.S.C. 103(a) over Arai (US 7,516,467) and in view of Florin (US 5,621,456)

*Applicants respectfully submit that Arai does not disclose any construction of a list of favorite services as cited in claim "A method for constructing **a list of favourite services** in a receiver suitable for receiving audio and/or video digital services." (Emphasis added)." Rather, Arai is related to the construction of a list of programs matching a selection criterion which is not equivalent to the claimed list of favorite services, because a service may carry many different programs, and the same program may be carried by many different services. Thus, there is no clear relationship between a list of favorite services and a list of programs matching a selection criterion, and therefore, a list of programs matching a selection criterion is not equivalent to a list of favorite services. (Remarks, page 4). Examiner respectfully disagrees.*

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., *a service may carry many different programs, and the same program may be carried by many different services*) are not recited in the rejected claim(s). Although the claims are

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interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In this case, Arai teaches the service is provided by the service provider (i.e. bouquet ID) including TS ID and service ID from global Network Information table (NIT); as ***the first list of available services*** (Fig. 10 of Arai). Further, Examiner relies on Fig. 14 of Arai illustrates an individual EPG is **construction of a list of services** (i.e. Public services as Movie Channel, Children TV, News, Sports TV etc... as TV programming services) corresponding to **channel service ID** ST4, ST5, ST6, ST7 etc... respectively. Each channel service has many different TV programs i.e. service name Movie Channel includes many different TV programs as (PR1-PR4) and each broadcast service provider provides a plurality of channel services. When viewer selects the particular broadcast service provider which can make the viewer automatically watch a television program of the particular channel service recommended by that broadcast service provider (i.e. creating a ***recommended program***). (Col. 8, lines 38-46 and Col. 9, lines 12-28). With above discussion, it is believed that Arai discloses ***construction of a list of favorite services*** as cited in claim.

With respect to argue that *"the selection criteria in Arai are for program matching, but there is no mention of a criterion for the construction of a list of favourite services"*.

Consequently, Arai fails to teach or suggest at least the claimed features of: *"recovering a second list of services comprising for each service the unique identifier and at least one value of selection criterion."*

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Further, Examiner relies on Fig. 3 of Arai illustrates a first list of services (Top) as STD table and a second list of services (bottom), includes service ID (ST100), and genre as *value of selection criterion* in teaching "a genre is arranged as information of each channel service of the individual electronic program guide, and a television program of a particular channel service of a particular broadcast service provider is automatically displayed by the displaying means in cases where the genre of the particular channel service agrees with **a viewer's favorite genre** in the individual electronic program guide or viewer service genre indicating the genre of a particular television program is attached to an identification number of each television program in a table of the electronic program information. (Col. 9, lines 12-28 Col. 32, lines 35-38, Col. 33, lines 4-11). With above discussion, it is believed that Arai discloses *a criterion for the construction of a list of favourite services*. Consequently, Arai teaches or suggests at least the claimed features of: *"recovering a second list of services comprising for each service the unique identifier and at least one value of selection criterion."*

B. Florin does not cure the deficiencies present in Arai.

Applicants further submit that *Florin, Figure 22 and column 18, line 61 through column 19, line 49, discloses a button for selecting a category of program entitled "favorites."* However, that *"favorites" category deals with a list of programs selected, not a list of services. Clearly, Florin teaches the list 320 comprises favorite programs for the current time slot including frequently viewed programs, marked programs, and programs to be recorded, as well as programs that match specified user preferences (column 19 lines 31 - 34). Thus Florin only discloses constructing a list of favorite programs.* (Remarks, page 5). Examiner respectfully disagrees.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are

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based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

. In this case, as above discussion, Examiner consider *a list of favorite programs as same as **the list of favorite service***. Arai also teaches “a genre is arranged as information of each channel service of the individual electronic program guide, and a television program of a particular channel service of a particular broadcast service provider is automatically displayed by the displaying means in cases where the genre of the particular channel service agrees with **a viewer's favorite genre as selection criterion**. However, Arai is missing of **determination of a subset of the list of services as a function of at least one selection criterion; (c) creation of said list of favorite services on the basis of the common services between the first list of available services and the subset of the second list of services**.

Examiner relies on Florin teaches **determination of a subset of the list of services as a function of at least one selection criterion** as illustrated in Fig. 22-25 when user select “favorite” category on remote control it will show all the available services from service provider [50] from here user can select the preferred service as Movies icon [310] or Sports icon [315] as **the list of favorite services**. Next if user selects the Sports icon, referred to Fig. 27 shows a sub-categories list as Baseball, Football, Hockey etc. as **a subset of the list of services** (Florin, Fig. 22-32, col. 18 lines 9-34, line 61-col. 19 line 20 and Col. 20, lines 1-14). It would have been obvious to combine of **said list of favorite services on the basis of the common services between the**

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first list of available services of Arai with ***the subset of the second list of services*** as taught by Florin.

Examiner respectfully recognize the position of Applicant. However, It is respectfully submitted that a prima facie case of obviousness has in fact been established and the rejection should be sustained.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims **1-10** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Arai** (US 7,516,467), in view of **Florin** (US 5,621,456).

Regarding **claim 1**, Arai teaches a method for constructing a list of services in a receiver suitable for receiving audio and/or video digital services (Fig. 14, 29, 33, 51a, 51b), comprising:

means of storage of a first list of available services in which each service possesses a unique identifier, i.e. a network information table (NIT) of Fig. 10, Services Description Table (SDT) contains the transport stream ID and the service ID (TS) and Program Association Table (PAT) containing Program IDs (Fig. 3, 10-12, 40, 41; Col. 28, line 40-Col. 29, line 10 and Col. 28, lines 47-58), wherein the method comprises the steps of:

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recovery of a second list of services (i.e. Fig. 3, 4) comprising for each service the unique identifier and at least one value of selection criterion, i.e. Event Information Table (EIT) includes the transport stream ID, the service ID and genre information (Fig. 3, 4, 12, 42-44; Col. 19, lines 3-40; Col. 23, lines 17-43);

determination of at least one selection criterion, i.e. a user selects a particular program attribute or genre (Col. 31, line 39-Col. 32, line 20; Col. 32, line 35-Col. 33, line 10).

Arai does not clearly teach determination of a subset of the list of services as a function of at least one selection criterion; (c) creation of said list of favorite services on the basis of the common services between the first list of available services and the subset of the second list of services.

Florin teaches a method for constructing a list of favorite services in a receiver suitable for receiving audio and/or video digital services (Col. 10, lines 46-63; Col. 11, lines 1-28; Col. 18, lines 9-35), comprising:

determination of a subset of a list of services as a function of at least one selection criterion, i.e. redacted program guide with only programs related to the selected category (Col. 18, lines 9-35; Col. 18, line 61-Col. 19, line 49);

creation of said list of favorite services on the basis of the common services between a first list of available services and the subset of the list of services, i.e. program guide with all programs is filtered to only include programs from the selected category (Col. 18, lines 9-35; Col. 19, lines 25-49; Col. 20, lines 1-14).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Arai to include determination of a subset of the list of

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services as a function of at least one selection criterion and creation of said list of favorite services on the basis of the common services between the first list of available services and the subset of the second list of services, using the well-known method of filtering a list of programs based on a user-selected category in order to produce a listing of programs in that category in combination with the program tables taught by Arai, for the purpose of providing a more user-friendly mechanism for consumers to view, record, and play back TV and A/V programs (Florin-Col. 2, lines 15-33).

Regarding **claim 2**, Arai in view of Florin teaches in which the first list of services is a list of the services available in the digital streams actually received by the receiver, i.e. the SDT includes data on programs currently being received (Arai-Col. 19, lines 3-40; Col. 23, lines 17-43; Florin-Col. 18, lines 9-35).

Regarding **claim 3**, Arai in view of Florin teaches the second list comprises at least the services potentially receivable by the receiver and in that the first list is a subset of the second list, i.e. the EIT includes data on programs that will be received in the future as well as currently received (Arai-Col. 19, lines 3-40; Col. 23, lines 17-43).

Regarding **claim 4**, Arai in view of Florin teaches wherein the selection criterion of step (b) is a selection criterion or a logical combination of selection criteria entered by a user on the basis of the criteria of the second list (Arai-Col. 31, line 39-Col. 32, line 20; Col. 32, line 35-Col. 33, line 10; Florin-Col. 18, lines 9-35).

Regarding **claim 5**, Arai in view of Florin teaches wherein step (b) comprises a step for determining a default criterion or a logical combination of default selection criteria, e.g. a user selects an attribute/genre/category (Arai-Col. 31, line 39-Col. 32, line 20; Col. 32, line 35-Col. 33, line 10; Florin-Col. 18, lines 9-35).

Regarding **claim 6**, Arai in view of Florin teaches wherein steps (b) and (c) are repeated for several default selection criteria or logical combinations of default selection criteria to create a plurality of default favorite services lists, e.g. movies listing, sports listing, etc (Florin-Col. 18, lines 9-35).

Regarding **claim 7**, Arai in view of Florin teaches the second list is: - sent by transmission on a channel able to be received by the receiver; - accessible in the receiver by downloading from a remote server; or - embedded in the receiver (Arai-Col. 28, lines 26-46; Col. 28, line 64-Col. 29, line 10; Florin-Col. 10, lines 45-67).

Regarding **claim 8**, Arai in view of Florin teaches the first list is extracted from stream description tables included in the stream or streams actually received by the receiver, the said stream description tables indicating the services transmitted in the received stream or streams (Arai-Fig. 3, 4, 12, 40, 41; Col. 19, lines 3-40; Col. 23, lines 17-43).

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Regarding **claim 9**, Arai in view of Florin teaches a step of updating at least one from among the first and the second list by transmission in a stream able to be received by the decoder or by downloading from a server (Arai-Col. 28, line 27-Col. 29, line 10).

Regarding **claim 10**, claim is analyzed with respect to claim 1. Arai in view of Florin further teaches means of storage of a second list of services (Arai-Col. 28, lines 27-63).

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALAN LUONG whose telephone number is (571)270-5091. The examiner can normally be reached on Mon.-Thurs., 8:00am-5pm EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Beliveau can be reached on (571) 272-7343. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ALAN LUONG/
Examiner, Art Unit 2427

/Scott Beliveau/
Supervisory Patent Examiner, Art Unit 2427